

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 718

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXATION; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029H, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE AN INCOME TAX CREDIT FOR QUALIFYING BIOMASS, TO PROVIDE PROCEDURES, TO PROVIDE FOR CARRY FORWARD AUTHORITY, TO PROVIDE FOR APPLICATION OF THE CREDIT, TO PROVIDE THE CREDITS SHALL BE FOR A FIVE YEAR PERIOD AND TO PROVIDE FOR RECAPTURE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3029H, Idaho Code, and to read as follows:

63-3029H. INCOME TAX CREDIT FOR COLLECTION OF QUALIFYING WOODY BIOMASS. (1) As used in this section:

(a) "Biomass energy producing facility" means a facility that produces heat, steam or electricity from qualifying biomass or biofuel.

(b) "Biofuel" means liquid, gaseous or solid fuels derived from qualifying biomass. Biofuel does not mean ethanol.

(c) "Renewable woody biomass" means any organic matter that is available on a renewable or recurring basis from non-federal and federal lands in the state of Idaho, including--

(i) renewable plant material, including--

(A) trees;

(B) brush;

(C) slash and pre-commercial thinnings; and

(D) other plants and tree material (including chips); and

(ii) wood waste material, including--

(A) wood residues;

(B) construction waste; and

(iii) yard waste.

(d) "Biomass owner" means a person or business entity that holds legal title to biomass at the time of delivery to a biomass energy producing facility.

(e) "Green ton" means two thousand (2,000) pounds with not more than fifty percent (50%) moisture content.

(f) "Qualifying biomass" means renewable woody biomass originating in the State of Idaho that would have remained in the forest or rangeland at or near its point of origin to be treated or disposed of at or near its point of origin and otherwise would not be collected and transported but for the existence of a woody biomass market supported by the tax credit provided herein.

1 (g) "Qualifying biomass" does not mean yard debris, urban waste, black
2 liquor, sawmill waste or residuals or wood that has been treated with
3 creosote, pentachlorophenol, inorganic arsenic or other inorganic
4 chemical compounds.

5 (2) (a) A biomass owner shall be allowed a credit for qualifying biomass
6 collected and delivered to a biomass energy producing facility in the
7 amount of ten dollars (\$10.00) per green ton against the taxes that
8 would otherwise be due under the provisions of Idaho Code.

9 (b) A credit under this section may be claimed in the tax year in which
10 the biomass owner transfers qualifying biomass to a biomass energy pro-
11 ducing facility.

12 (3) The amount of the credit claimed under this section for any tax year
13 may not exceed the combined/consolidated tax liability of the taxpayer after
14 taking into account any other credits the taxpayer is entitled to.

15 (4) (a) A biomass energy producing facility shall provide a written re-
16 ceipt to a biomass owner at the time the qualifying biomass is trans-
17 ferred from the biomass owner to the biomass energy producing facility.
18 The receipt must state the delivered quantity of the qualifying biomass
19 and include a statement that the qualifying biomass is to be used exclu-
20 sively to produce heat, steam, biofuel or electricity.

21 (b) Each biomass owner shall maintain the receipts described in this
22 section in their records for as long as the statute of limitations is
23 open for the tax year in which the credit is claimed.

24 (5) The credit shall be claimed on a form prescribed by the state tax
25 commission that contains the information required by the commission which
26 must include, but is not limited to:

27 (a) the name, address and taxpayer identification number of the biomass
28 owner;

29 (b) certification, under penalty of perjury, that the credit claimed
30 complies with the provisions of this section;

31 (c) quantity and origin of the qualifying biomass for which the credit
32 allowed under this section is sought; and

33 (d) the identity of the biomass energy producing facility.

34 (6) Any tax credit otherwise allowable under this section that is not
35 used by the taxpayer in a particular tax year may be carried forward and off-
36 set against the taxpayer's tax liability for the succeeding fourteen (14)
37 tax years subject to the limitations set forth in subsection (3) herein.

38 (7) In the case of a credit allowed under this section:

39 (a) A nonresident shall be allowed the credit which shall be determined
40 in a manner consistent with section 63-3026A, Idaho Code.

41 (b) A part-year resident shall be allowed the credit which shall be de-
42 termined in a manner consistent with section 63-3026A, Idaho Code.

43 (c) A biomass owner may also be an owner of the biomass energy producing
44 facility.

45 (8) Tax credits under this section apply for tax years beginning on or
46 after January 1, 2010, and before January 1, 2015.

47 (9) In the event that any person to whom a tax credit is allowed under
48 this section is determined not to qualify for such credit, the full amount of
49 the credit, including penalties and interest may be subject to recapture by
50 the commission. Any amount subject to recapture is a deficiency in tax for

1 the amount of the credit in the taxable year in which the disqualification
2 first occurs and may be enforced and collected in the manner provided by the
3 Idaho income tax act.

4 SECTION 2. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after its
6 passage and approval, and retroactively to January 1, 2010.